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SPEECH

OF

MR. HILLIARD, OF ALABAMA,

ON

THE MEXICAN WAR,

DELIVERED IN

THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

JANUARY 5, 1847.

WASHINGTON.

J. & G. S. GIDEON, PRINTERS.

1847.

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*Henry Washington* 1808-1892

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The House being in Committee of the Whole on the state of the Union, and having under consideration the bill to raise, for a limited time, an additional military force, and for other purposes—

MR. HILLIARD rose and said :

MR. CHAIRMAN : The debate which arose upon referring the President's message to the several committees took so wide a range, that I forbore to take any part in it, but preferred rather to wait until some practical question should come up which would afford better ground for what I desire to say. Such a question is now before us, and it involves the same topics. I do not wish to be understood as complaining of the spirited and interesting debate which has already taken place ; I only regret the asperities which, in too many instances, have marked it on both sides. In all constitutional governments, where the representative principle is recognised, great latitude of debate must be allowed. The spirit of liberty will make itself heard wherever it exists. It spoke out in the stormy debates of the ancient republics, and it has often shaken the throne and arrested kingly power in England. In the language of Burke, "Something must be pardoned to the spirit of liberty." The course of executive power must be boldly surveyed; it ought to be. Even in royal governments, where it is usual for the monarch in person to address the legislative bodies, it is customary, in discussing the reply to the speech from the throne, for the widest latitude of debate to be indulged in, and the utmost freedom of remark is permitted without complaint. In England, especially, the reply of Parliament to the royal speech usually manifests the highest degree of jealousy on the part of that body for the rights of Englishmen. And shall we, who profess to have yet larger views of public liberty, attempt to restrain the utmost latitude of remark on the course of those entrusted with power? Certainly not. Previous to Mr. Jefferson's time, the American Presidents came to Congress at the opening of the session, and addressed both Houses in person. It was usual, too, for each House to reply to the speech of the President; and this afforded the opportunity of discussing with freedom the Executive measures. At the opening of the session of Congress, in 1801, Mr. Jefferson adopted, as more convenient, the practice of sending a message to the two Houses; and although this form of Executive communication made a reply unnecessary, yet, we are informed by the parliamentary history of the period, that a very animated debate took place on the topics it contained. I trust the day will never come, when, in this Government, such freedom will be denied. A French king once said, "I am the State," but a President of the United States can use no such language. He occupies, it is true, an elevated and very influential position in the Government, but the severest ex-

amination of his course in the exercise of his functions, in whatever direction they may be put forth, is consistent with the purest patriotism.

While, then, sir, I claim for myself, and for other gentlemen of this House, the privilege of discussing Executive communications with the greatest freedom, it is not my purpose to enter at large upon an examination of the message which the President has lately sent to Congress. There are, however, some subjects which it brings before us, of such magnitude, and which must so largely affect the character and happiness of the country, that I cannot consent to let them pass without giving my views of them. We have reached an important point in our history. We are at war. For once I believe in the existence of a crisis. It is not that there is any thing portentous in the elements which surround us—the nation with which we are at war is a feeble one, and we have nothing to fear from her arms. But a question, which was started at the close of the last session, and which has already been revived since the commencement of the present one, is sufficiently ominous.\* Like a sea-bird driven far in-land, it may be a messenger which gives notice of the coming tempest. This question grows out of the great topic presented in the message, the war; and it is here in this Hall, where we have heard some extraordinary declarations made in connexion with it, that I desire to speak of it. I do not wish to precipitate this great question; it ought not to have been brought here; but as it is here, it must be met. This Hall should not be converted into an arena for hot controversy, by bringing for discussion here a subject which does not fairly come within the range of our deliberations, and which must shake, not only this Capitol, but this Republic.

But first, as to the war. This is the great theme of the message—the prominent colossal figure in the foreground of the picture, about which the other objects are grouped in humbler and smaller proportions. I suppose it must be so; our foreign relations, with the single unhappy exception referred to, are all of the most amicable kind; our internal tranquility is perfect; the vast resources of our country are in a course of prosperous development. There is but the one check to our prosperity; but for this, the President informs us, the public debt would have been discharged, and we might now have been engaged in plans for increasing the happiness of our people, and advancing in our high career of civilization. But, though it must be admitted that war is a calamity, yet I cannot bring myself to agree with those who think it best to arrest all our movements against Mexico. I concur in opinion with a distinguished Senator from Delaware, (Mr. J. M. CLAYTON,) who, some days since, took occasion to say, that he was decidedly in favor of sustaining the Government in the prosecution of the war. My honorable friend from Philadelphia (Mr. J. R. INGERSOLL) has avowed the same determination. I do not see that any other course is left us. The question is not now, whether we shall plunge into a war or not; the question is, a war having been commenced, shall we sustain it, or shall we let it go down? Shall we infuse new vigor into the war, by voting the men and the money asked for, or shall we withdraw all support from the war, and arrest it before it has accomplished its objects?

If the question were now presented to me, between peace and war, I

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\* The honorable Mr. Wilmot's resolution as to slavery; and the honorable Mr. Preston King's bill and speech on the same subject.



should undoubtedly be in favor of peace. But no such election is presented to us. The spectacle before us is a war in progress; our own country on one side, a foreign country on the other; our own country, at every step which our armies take, holding forth an offer of peace, an offer which the enemy as yet have shown no disposition to entertain. This is enough for me. I range myself on that side on which I see the standard of my country. Over the troops now in Mexico floats the same standard which was borne through the storms of the Revolution; it was often dimmed with the smoke of battle, hostile bayonets bristled about it, and sometimes seemed to surround it and overbear it, but it emerged from that long and fierce conflict covered with the light of victory. Who is willing to see that banner giving back before the enemy, or trailing in the dust? Who does not desire that it may be borne in triumph on whatever breeze it may be flung? I am sure that every gentleman here exults in its triumphs.

The fleets which now blockade the ports and cruise along the coasts of Mexico bear the same glorious flag that streamed from the mast-head of the *CONSTITUTION*, when she carried the thunder of our arms to distant seas, and spread dismay among the enemies of our rising commerce; or, guarding the line of our own coast from the ravages of a formidable foe, rushed down triumphantly upon her prey. So long as that flag is flying, no matter under what sky, American hearts will mourn over its reverses, and rejoice in its triumphs.

The question before Congress is, "Shall we prosecute this war?" On that question I cannot hesitate for a moment. The Constitution has conferred on Congress the prerogative of declaring war. We have recognised the war, and by that vote we have made the Chief Magistrate responsible for the mode of conducting it. So long as the President is thus responsible, by the theory of our Government, he is charged with the conduct of the war. He is invested with all the authority which belongs to that important station. It is for us to say how far we will go in voting supplies; and it must be a great crisis, one such as I have never yet seen, and which has never occurred in our history, which would warrant me in refusing to vote them. Other gentlemen must of course decide for themselves; these are my convictions. I shall, therefore, while I should be happy to see this war brought to a speedy and honorable termination, continue to sustain the Government in its prosecution, till such terms of peace as we ought to accept can be secured. I trust, too, that this will be the sentiment of the whole country. So far, the progress of the war has been marked by a self-sacrificing and patriotic spirit, which illustrates our free institutions, and by victories as remarkable and brilliant as any which history records. Whatever regrets may be felt at the interruption of the long career of peace which our country has enjoyed, we have at least gratifying proof that it has left no enervating influence on the national character.

But we must not lose sight of the objects of the war. Every war has its object. In our two contests with Great Britain we had great objects before us. The war of the Revolution was undertaken in defence of a great principle. The spirit of liberty revolted against taxation, which was too light to be felt as a burden, but which was too great a violation of principle to be borne by men who were jealous of the encroachments of power. "They snuffed oppression in the tainted gale." They struck for freedom, and in the mighty struggle which ensued they had the sympathy of mankind. The

contest undertaken for liberty, ended in independence. In the later war with that power, the object was the immunity of our flag; we undertook to maintain that doctrine so important to a free commercial state, that those who sailed in an American ship should look to the flag that floated over them for protection, and find in its sanctity security against arrest by any Power, upon any sea where it might be borne.

What is the object of the present war? The inviolability of our soil, and redress for past wrongs. Whenever Mexico shall be disposed to yield these, we are bound to accept them. Till then, we ought not to hesitate a moment, not only to hold what we have obtained, but to make, if necessary to the attainment of these objects, still stronger demonstrations. Until the objects of the war are accomplished, we must prosecute these objects. But we owe it to ourselves, more even than to Mexico, to take care that these objects are not lost sight of in the heat of the contest.

I trust we are not carrying on a war for aggrandizement; if so, we should have selected some other adversary, and not have made the point of our lance ring against the shield of our weakest neighbor.

Nor is it a war for the acquisition of territory; we do not wish to strip a feeble state of her possessions because we are stronger than she. But until Mexico gives some unequivocal sign that she is willing to grant us an honorable peace, the war must be continued, and ought to be prosecuted with the utmost vigor. I would not be understood by this to mean that I favor any particular plan for conducting the war; I simply desire to say, that such wise and energetic measures ought to be adopted as will save us from the evils of a protracted conflict. There is much wisdom in the advice of Polonius to Laertes:

"Beware

"Of entrance to a quarrel: but, being in,

"Bear it, that the opposer may beware of thee."

If from the heavy cloud which overspread Mexico I could see the dove of peace coming to us, bearing but a single olive leaf in her mouth, I would most gladly hail her approach. But in the absence of any such pacific sign, I hold that we are bound, as a nation, to prosecute the war.

We ought not to strike with a view to dismember the possessions of a weaker people, but our operations ought to be characterized by unfaltering energy, and by such a putting forth of strength as shall teach those against whom they are directed that it is their interest to seek a speedy peace. I would accept the first sign of such a disposition on the part of Mexico, and so far from degrading or crushing her, I would meet her with the most generous terms. They should be marked by the magnanimity of a great nation treating with a weak one.

Through this war, then, we desire to reach a peace. The President avows this to be the purpose of the Government in carrying it on. This is well. It should be so conducted as to leave no room for doubt upon this point. It ought not to appear, that while we profess to seek to tranquilize our frontier, to fix our boundary with a neighbor, and to redress acknowledged wrongs, that there is a deeper and concealed object. Are there any indications of a lust of dominion in this war? Are there any features in the events which have occurred in its progress which may be misunderstood? I am not, in a factious spirit, about to inquire whether the President has transcended his authority. I have a loftier purpose. It is comparatively a small

question how the Administration has used the power entrusted to it, except as its acts affect the character of the country.

I propose to inquire whether anything has occurred which exposes us to the charge of entertaining the purpose of wresting provinces from Mexico by strength, and holding them as permanent acquisitions against her consent. Any early instructions which look to this object, or any subsequent violations of the law of nations which go to show such a purpose on the part of the Administration, must dishonor our national character and impair our strength. If this be the object of the war, then is it diverted from its true and legitimate purpose. For the time being, the President has the conduct of the war under his charge. The question is, whether the instructions he has caused to be given, and the events of the war, disclose or not, a purpose of conquest, and the permanent acquisition of territory?

I shall speak to this question in a spirit of fairness, not, as I have already said, with the view of inquiring whether the President has abused his functions, but in the hope of doing something towards arresting a tendency in our affairs which, if it is permitted to go on, must prove alike fatal to our national character and to our free institutions.

Let us examine the instructions which those who were sent out to conduct this war took with them. I find among the papers sent to us by the President, in answer to a resolution of this House, moved by the honorable gentleman from Kentucky, (Mr. DAVIS,) a letter from the Secretary of War, addressed to General Kearny, under date of June 3, 1846, and marked "Confidential," from which I will read a single insignificant paragraph:

"You may assure the people of those provinces that it is the wish and design of the United States to provide for them a free government with the least possible delay, similar to that which exists in our Territories. They will then be called on to exercise the rights of freemen in electing their own representatives to the Territorial Legislature. It is foreseen that what relates to the civil government will be a difficult and unpleasant part of your duty, and much must necessarily be left to your own discretion."

How was this discretion employed? In declaring that the conquered provinces were *annexed* to the United States, in subverting the existing civil governments, and in devising and proclaiming a new, large, and complicated system of civil government, looking evidently to the permanent incorporation of the whole territory into the American Confederacy. He seemed to comprehend the full scope of the meaning of the Secretary of War, that they should be provided with "a free government with the least possible delay;" and certainly no government was ever organized with greater expedition than that which this victorious general set up in New Mexico. Even Ariel doing the bidding of Prospero, hardly displayed more swift obedience.

Not only was this free government provided for the inhabitants of those remote regions, but they were assured, under instructions from the same high quarter, that they would soon "be called on to exercise the rights of freemen in electing their own representatives to the Territorial Legislatures." It is impossible to overlook these things, and they do seem to disclose the existence of a scheme for the conquest and the permanent acquisition of territory at that early day.

I shall now turn for a moment to the instructions from the Navy Depart-

ment, and the operations under them. The Secretary of the Navy, in a letter dated June 8, 1846, and addressed to Commodore Sloat, writes:

"In like manner, if California separates herself from our enemy, the Central Mexican Government, and establishes a government of its own, under the auspices of the American flag, you will take such measures as will best promote the attachment of the people of California to the United States, will advance the prosperity, and will make that vast region a desirable place of residence for emigrants from our soil."

How evidently the permanent occupation of that vast region, by emigrants from our soil, seems to be contemplated. This idea is strengthened by pursuing the instructions given at a subsequent date, July 12, 1846, from the same Secretary to the same officer:

"The object of the United States has reference to ultimate peace with Mexico; and if at that peace the basis of the *uti possidetis* shall be established, the Government expects, through your forces, to be found in actual possession of Upper California."

The instructions from the same Department, addressed to the senior officer in command of the United States naval forces in the Pacific Ocean, look to the same result. They are dated August 13th, and begin as follows:

"COMMODORE: The United States being in a state of war by the action of Mexico, it is desired by the prosecution of hostilities to hasten the return of peace, and to secure it on advantageous conditions. For this purpose, orders have been given to the squadron in the Pacific to take and keep possession of Upper California, especially of the ports of San Francisco, of Monterey, and of San Diego; and also, if opportunity offer, and the people favor, to take possession, by an inland expedition, of Puebla de los Angeles, near San Diego.

"On reaching the Pacific, your first duty will be to ascertain if these orders have been carried into effect. If not, you will take immediate possession of Upper California, especially of the three ports of San Francisco, Monterey, and San Diego; so that, if the treaty of peace shall be made on the basis of the *uti possidetis*, it may leave California to the United States."

Here is a full and unequivocal avowal of the wish of the Government to have the operations against California so conducted, that when a treaty of peace is made with Mexico, if the basis of the *uti possidetis* shall be established, we may be left in possession of that important and coveted territory. That this basis would be urged by our Government can hardly be doubted, for it would leave us in possession, not only of all our own territory, but of vast acquisitions from Mexico. Let us add to these instructions one more paragraph, hardly less significant than those already read, from a letter addressed by the Secretary of the Navy to Commodore Stockton, and I do not see how any one can resist the conclusion, that, from the very commencement of these hostilities with Mexico, the permanent acquisition of vast territorial possessions was distinctly in the view of the Administration.

"You will, therefore, under no circumstances, voluntarily lower the flag of the United States, or relinquish the actual possession of Upper California. Of other points of the Mexican territory, which the forces under your command may occupy, you will maintain the possession or withdraw, as in your judgment may be most advantageous in prosecution of the war."

BUT OF CALIFORNIA, the possession was not to be given up under any circumstances whatever. I do not undertake to say, whether the acquisition of California, or any other of the Mexican possessions, is desirable or not. I am inquiring into the purpose, on the part of the Government, to hold these provinces as permanent conquests. I pass over the extraordinary proclamations published to the inhabitants of California, from the sea and from the land; the one professing to issue from the "Commander-in-chief of the United States naval force in the Pacific Ocean," and the other dated in the City of Angels, from the "Commander-in-chief and Governor of the Terri-

tory of California," and am willing to rest the case upon papers emanating from those who hold a confidential relation to the Executive.

But, sir, whatever are to be the results of the war, it ought not to be carried on so as to violate the law of nations. That code is not to be disregarded; it is sacred, and ought to be solemnly observed by us, and by all other nations.

It is not a collection of abstract essays on public questions of right and wrong. This is a law which is never silent; it speaks in the midst of arms. It is as diffusive as the air we breathe; it spreads itself by a sort of omnipresence over land and sea. Taking its rise in a sense of right, which even in early times was powerful enough to vindicate itself, it has gathered new strength with the advance of civilization, and it is attended in this age by sanctions which no people may disregard. Gustavus Adolphus, in all the wars which he undertook for civil and religious liberty, carried the book of Grotius with him as his guide. We should be always ready to do this law homage. It realizes Hooker's noble description of law in general: "Of law there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world; all things in heaven and earth do her homage; the very least as feeling her *care*, and the greatest as not exempt from her *power*."

Now, what is the language of this law in regard to the rights which result from conquest? Vattel, who has been referred to more than once in the course of the remarks which have been made on this subject, says:

"The conqueror who takes a town or province from his enemy cannot justly acquire over it any other rights than such as belonged to the sovereign against whom he has taken up arms. War authorizes him to possess himself of what belongs to his enemy; if he deprives him of the sovereignty of that town or province, he acquires it, such as it is, with all its limitations and modifications. Accordingly, care is usually taken to stipulate, both in particular stipulations and in treaties of peace, that the towns and countries ceded shall *retain all their liberties, privileges, and immunities*."

This is the extent of the rights which the conqueror acquires over possessions which the opposing sovereign held in subjection to his authority, but which did not fully belong to him; and it is the same right which a successful invader acquires over cities or provinces which he overruns, but which are not regarded as permanent acquisitions, "to be thenceforward united with the new State."

"But if the conqueror thinks proper to retain the sovereignty of the conquered State, and has a right to retain it, the same principles must also determine the manner in which he is to treat that State. If it is against the sovereign alone that he has just cause of complaint, reason plainly evinces that he acquires no other rights by his conquest than such as belonged to the sovereign whom he has dispossessed; and, on the submission of the people, he is bound to *govern them according to the laws of the State*."

Now, sir, this defines precisely the extent of our rights over those Mexican States which are occupied by our armies. We have expelled the sovereignty of that nation from those territories, and we have acquired it. We hold the supreme power there, and the people, having submitted to our arms, are "to be governed according to the laws of the State."

The argument made by the gentleman from Virginia (Mr. BAYLY) on this subject is an able one; but he misapplies the law, which he very correctly lays down. He says, "We acquire the rights of the conquered nation, whatever they are," and quotes from Wheaton in support of his proposition. No one will question the authority or the law, which asserts,

that "the right of the State to its public property or domain is *absolute*, and excludes that of its own subjects as well as other nations," and which defines the national proprietary right in respect to those things belonging to private individuals or bodies corporate within its territorial limits, as *absolute*, as far as it excludes other nations, and as only *paramount* in respect to members of the State. The other doctrine, too, which has been laid down, that of the "*uti possidetis*," will be as little questioned:

"The existing state of possession is maintained, except so far as altered by the terms of treaty. If nothing be said about the conquered countries or places, they remain with the conqueror, and his title cannot afterwards be called in question."

But, sir, this law applies to the rights acquired by the conqueror over the *property* found in the conquered territory, whether public or private, and determines the results which would follow the conclusion of a treaty of peace under a certain state of facts. It does not touch the question of political rights, immunities, and privileges. The question is, when the conquered sovereignty gives back before the advancing conqueror, and retires from the territory in dispute, to what does the conqueror succeed? To the rights of the conquered sovereign; that is, to the right of *administering* the government of the conquered territory while he holds it. But is the civil government to be subverted, and all existing internal laws to be displaced, and principles and forms which the conqueror may happen to think good to be imposed arbitrarily upon the inhabitants of provinces temporarily subjected to his power?

This is the point to be regarded; for, I repeat, the question as to property does not come up here; it is a question of political right, a question of far higher interest and importance.

When the gentleman from Virginia comes to speak of our *duties* in respect to the country now held by military occupation, he insists that "we are required to establish temporary civil governments, or rather '*quasi*' civil governments—civil in their form and rules of proceeding, and military in their origin; established to protect the rights of persons and property of the vanquished during the military occupancy of the country. The right, nay, the duty, to establish such governments, involves the right to determine upon its form. What it shall be is purely a matter of expediency and convenience. Upon principle, it would seem that it ought to be assimilated as near as possible to the forms of the conquering nation. As in all wars by land the acquisition of territory is looked to as probable, the sooner the people are introduced to the form of government under which they are in future to live the better. And the vanquished have no right to complain, but rather to be grateful when the form adopted is not worse than the one superseded. And even when it is worse, they must submit to it as the fortune of war."

I must dissent from all this. I cannot admit that these principles apply to our rights over the Mexican territory now held by our arms. They apply to complete conquests and permanent acquisitions, not to such as are held in temporary possession merely.

Vattel, in laying down the doctrine, expressly refers to a conquered town or province which has passed "into the power of the conqueror. Thenceforward united with the new State to which it belongs; if it be a loser by the change, that is a misfortune which it must wholly impute to the chance of war." When does the right thus to treat the conquered territory arise? When, in the language of the same writer, "by the treaty of peace, or the



entire submission and extinction of the State to which those towns and provinces belonged, the acquisition is completed, and the property becomes stable and perfect."

I readily admit, that if a conquered possession is to be permanently held and incorporated with the territory of the conquering nation as its own, the conqueror has a right to extend his own laws over it absolutely; but not when the tenure is temporary only. In that case the country must be governed by the subsisting laws. Those who so hold it are not to expel the system of laws which existed there before it came into their possession. A gentleman from South Carolina (Mr. HOLMES) promptly put this matter in its true light; and another gentleman from the same State, (Mr. WOODWARD,) has clearly and forcibly exhibited the law of nations upon the subject.

It may well be remarked here, too, that it is not for the conquering general to say what shall be the form of government of the country which he has seized. He is bound to maintain his military occupation of it; but he can do no more. Nor can the President provide a civil government for it, for he merely holds the supreme command of the forces; it is for this Government, acting through its several departments, to establish laws over it.

These principles are not contradicted by the decision of the Supreme Court in the case of the *United States vs. Rice*, which has been referred to. The question involved there was one of property, as affected by a change of sovereignty, not a question of civil liberty, or of political rights. The facts were these: Goods were imported into Castine in September, 1814, during its occupation by the enemy, and remained there until its evacuation. Upon the re-establishment of the American Government, were they subject to duties imposed by our revenue laws? The Supreme Court declared they were not—upon the principle that the sovereignty of the United States over the territory in possession of the British troops was *suspended*, and the inhabitants passed under a temporary allegiance to the British Government, and were under such laws as they chose to recognise and enforce.

The proclamation of Gen. Harrison has been referred to, but there is a broad contrast between that document and the proclamation of General Kearny. I feel a profound interest in the memory of Harrison; it is consecrated by good deeds, and has received the seal of death. A long life, marked at every step by purity in his personal relations, and by his respect for public law, was closed in the midst of the gratulations which greeted him from all parts of this great Republic, on the occasion of the most astonishing political victory which the annals of this country can show.

In referring to his proclamation, dated 17th October, 1812, we find no subversion of subsisting laws; no appointment of judges, attorney general, sheriffs, and a hundred other officers; no new and complex system of laws instituted. True, the commissions of all magistrates were suspended, but their authority was still continued under that of the United States. In taking possession of Upper Canada, he said to the inhabitants:

"The district is now in the quiet possession of our troops; it becomes necessary to provide for its government; therefore we hereby proclaim and make known, that the rights and privileges of the inhabitants, and the laws and customs of the country, as they existed, or were in force at the period of our arrival, shall continue to prevail."

Had a course like this been pursued, we should have been spared the present controversy. The spectacle would not have been presented to the

world of our indecent haste to provide new forms of government the moment we had obtained possession of one of the provinces of our enemy.

I have thus, sir, endeavored to present the real question, which is not whether a milder or harsher form of government has been introduced by our army into the Mexican States which we hold in subjection, but whether the occupied provinces are regarded and treated as permanent conquests already annexed to this country. It is not my object to cast any censure either on the President or his officers, but the instructions to which I have referred, and the disregard of obvious principles of international law, seem to disclose the purpose of making this a war of conquest. Indeed, some gentlemen upon this floor, friend too of the President, do not hesitate to avow that it is such. Among other significant declarations on this subject, a gentleman from New York (Mr. GORDON) informed us some days since, that they intended "to keep what we have." Against this rising lust of dominion, we ought at once to take a position and set up a standard. If it should spread and gather strength, it will prove fatal to our free institutions. Our very successes will ruin us. Cicero attributes the decline and fall of the Roman empire to the oblivion of the great principles which they had recognised in their earlier days and humbler fortunes. In the early extension of her power, she became, in his language, "the patroness, rather than the mistress of the world." All this passed away with the triumphs of Sylla. Our Government is one of consent; it rests so lightly upon its citizens that its weight is not felt. If we should become engaged in wars for the extension of our sway, overrunning neighboring States, and bringing into our confederacy a reluctant people, the whole character of our political system will be changed—it will be converted into a colossal despotism, and we shall furnish another grand and instructive, but unhappy, instance of the failure of institutions intended to provide for the protection of human liberty.

"Such is the moral of all earthly tales;  
 'Tis but the same rehearsal of the past,  
 First freedom and then glory; when that fails,  
 Corruption, slavery, barbarism at last;  
 And history, with all her volumes vast,  
 Hath but one page."

I am not averse to the extension of the territory of the United States, nor do I feel on that subject the apprehensions which haunt the minds of some gentlemen. Such is the elasticity of our federal system of government, that it may be extended over any space, great or small. It resembles the fabled tent in the Arabian Nights, which could cover with its folds few or many. Steam and the magnetic telegraph overcome space, and bring together remote parts; but if territory is to be acquired, let it be in a legitimate way, by purchase, or by the coming in of a neighboring people who have attained a high degree of civilization. If our institutions are to extend themselves, let it be by their own inherent and peaceful power, not by the aggressive force of arms. Our national character, and the purity of our political system, are of far more consequence to us than any amount of territory which we can acquire.

There are other topics to which I must now turn. The gentleman from the State of New York, to whom I have already referred, (Mr. GORDON,) informed the House that "the people of the United States meant to hold on to California; they meant to conquer it, and hold it, and make it a per-



manent acquisition. That was what they meant to do with it. The President neither meant to do, nor had he the power to do, anything as to the disposition of our conquests. Gentlemen might be very easy; in due time the American people would take proper care both of California and New Mexico. Of one thing they might be assured, those provinces never would return to Mexico again." This is explicit enough, and we ought to feel under obligations to the honorable gentleman, who is a member of the party now in power, for an avowal so frank and unequivocal. Not content, however, with enlightening us as to the objects of the war, he proceeds to inform us upon "another subject, and one of no trifling moment. The people of the United States—a vast majority of them at least—were not only for the war, and for retaining this conquered territory as an indemnity for the robberies and spoliations of Mexico, but they meant to make it a FREE TERRITORY."

Such, then, is a bold declaration of the purpose to hold New Mexico and California as permanent acquisitions, to be incorporated with this Confederacy, and to exclude slavery from the whole territory.

In the same spirit another gentleman from New York (Mr. PRESTON KING) brought forward yesterday morning a measure which looked to the acquisition of territory from Mexico, and which provided for the total exclusion of slavery from it; and to-day, taking advantage of the permission which the House granted him to make a personal explanation, he has spoken at length upon this subject, insisting upon the permanent annexation of new territory, to be hereafter converted into FREE STATES.

I regret the introduction of this subject. It is impossible to overlook the danger which it brings with it. Gentlemen belonging to the party in power insist, that this war shall be converted into a war of conquest; that large and important States, stretching through several parallels of latitude, shall be torn from Mexico, and incorporated into our Confederacy; that peace shall be made upon no other terms, no matter how ample the remuneration tendered for past wrongs may be; and that the territory thus acquired shall be made to increase the preponderance of one section of the Union, by legislating here in advance as to the character of the population which shall overspread it.

I take now the ground which I took before on the Oregon question. We have no right to say to the Executive department of the Government what shall be done in settling the terms of a treaty; and I therefore consider it highly improper to introduce such projects here as have been referred to.

The attempt to fix in advance, by a vote of this House, the terms of a treaty hereafter to be concluded with Mexico, is a solemn interference with the province and duties of another department of this Government. That duty belongs to the treaty-making power, which, by the Constitution, is vested in the President and the Senate. It is for this House to discuss questions of a very different character. Each department of the Government should be left to the undisturbed exercise of its own functions. It is as unwise as it is unbecoming in us to leave the sphere of our legislative duties; we shall find full employment in a faithful attention to them, in the present state of our national affairs, without yielding to the promptings of a discursive philanthropy, which can only injure where it seeks to guide. If this scheme of acquiring territory is persisted in, and the power of this Government is to be brought to bear upon it so as to exclude slavery from

every part of it, it must be seen by all who have bestowed any reflection upon the history of the organization and progress of our political system, that the most serious, I may say disastrous, results will follow. This Union can only stand on those compromises which I regard in their sacred obligation as second only to the Constitution. The compromise which has already taken place on the Missouri question, was sufficiently disadvantageous to the South. The South does not interfere in the concerns of the North. A lofty feeling of brotherhood for the people of this whole country is cherished there. I, for one, rejoice in the splendid achievements and unprecedented success of the industry and enterprise of New England, as much as any man. I turn with pride to her Revolutionary history. I admire the genius which she sends to our national councils. I survey with pleasure the vast resources and rapid growth of this whole country. Why is it, then, that no opportunity is lost to proscribe the South, to subject our internal policy to censure, and to direct against our institutions the sentiment of mankind, both at home and abroad? Gentlemen have transcended the rules which should govern them here; if they proceed, they will rend the bonds of this Union as Samson burst the withes that bound him.

Is this the doctrine to be acted on, that territory must be acquired, and, wherever acquired, free labor may be suffered to go there, but the men of the South must not take their slaves with them there?

When this great question was agitated in 1820, a northern man, Mr. Holmes, of Maine, said, that to regulate slavery was the attribute of sovereign power. He used this language:

"To regulate the relation between different members of a community, or to establish or prohibit slavery, is an attribute of sovereign power. \* \* \* \* The gentleman from New York has told us that a slave representation beyond the original States is unequal, and contrary to the spirit of the compact. I know not where the gentleman derived his authority, surely not from the Constitution. It is there argued that the representation shall be apportioned according to the number of free persons and *three-fifths* of the slaves, not in such States as then existed, but 'in such as *may* be included within the Union.' This language is explicit and positive."

Mr. Macon, of North Carolina, took part in the same debate—that which grew out of the Missouri question. That good and great man, at once calm and wise, was distinguished for a patriotism which was comprehensive enough to embrace his whole country. He said:

"The gentleman from New Hampshire has said that the Constitution was a compromise as to slaves. This is no doubt true; but not a compromise to emancipate. The States that held them could free them, as others had done, without asking or consulting the convention or Congress. But it was a compromise as to representation, and nothing else."

This is the language of truth and justice. But we are told now that the North will hold the conquered Mexican provinces; but that neither I, nor any southern man, nor our children, nor our children's children, shall set a foot within them, unless we consent to abandon our property? This is not a place to discuss the question of slavery. It is a subject that should never be named in this Hall. It is an institution which belongs to the southern States, and gentlemen do those States great wrong to press them or that subject here.

The Missouri compromise did them much injustice. Suppose the South should select a particular institution existing in the northern States, or a particular feature in northern society—the labor of operatives in factories for

instance—and undertake to denounce it and overthrow it, how would it be regarded? What would they think and say of such a proceeding? Why, then, is this course pursued towards the South?

The slave population must have a representation somewhere. By the compromise of the Constitution, the slave States are deprived of a portion of their political importance. What, then, is to be gained by limiting slavery to the precise extent which it now occupies? Will it ameliorate the condition of the slave? Would their introduction into new territory increase their number? The object is clearly a political one, thinly disguised by an assumed philanthropy. Suppose you could even succeed by keeping the slavery within its present limits, in bringing about its abolition, would not the political importance of these people be increased, by rising from a *three-fifth* to a full representation?

If there are other States to be formed at our side, under the same burning sun, and covering the same fertile plains, will they not have common interests, and ought they not to have common institutions and common sympathies? Why is every occasion seized on to bring this unprofitable and dangerous question into the field of controversy? I ask, in the name of the Constitution, and of the men who formed our institutions as they exist, that this subject shall not be made here a theme for angry disputation. Let not gentlemen disturb the regular course of business in this body, by rising in their places, and meeting us with projects and speeches such as those to which we have listened. If this is to be done, this Government will become unequal, and its days will be numbered. The spirit still lingers in the South which produced our Revolution—a spirit which will contend for political rights to the very last. The people of those States love this Union; they glory in the past, and hope for the future. They will cling to the pillars of the CONSTITUTION as long as they can; they will listen to the parting words of WASHINGTON, still vibrating in their ears, as long as endurance is possible; but, when they find that they are to be downtrodden, they will be constrained, though it be with deep grief, to give up an alliance which is to be marked only by wrongs and oppressions, and gather about their homes and their property.

Sir, I trust that hour will never come. The spirit which has this day been manifested by the member from New York ought to be rebuked, and the blame for the introduction of this subject ought not to be thrown from him upon the gentleman from Tennessee, (Mr. GENTRY,) who spoke of it only because he had the sagacity to see the question coming. It is time to meet it. If it is provided that the States on this side the Mississippi shall be equally balanced in respect to slavery, why should not the same balance be permitted to exist on the other side?

As to the acquisition of Mexican territory, it is a question which belongs to the treaty-making power. We should not now discuss it. But, as it has been thrust upon our attention, I have felt it my duty, as a southern man, to express my own views. If territory is to be acquired, let it be subjected to compromises which have been already formed. I do not wish for any violation of the Missouri compromise. Let it stand, in letter and spirit. Let the line upon which it runs be extended to the Pacific ocean.

I hope to see that worst of all party spirit, the spirit of geographical party, forever banished from this Hall. If kept alive here, it will lead to the fiercest collision which has ever been witnessed in this country.

When it becomes dominant, and the rights of the North are exalted above those of the South, when fraternal affection is lost in a struggle for party ascendancy, when patriotism dwindles down into a narrow regard for a mere section of our country, then will this Government, erected by our fathers for the protection of human liberty, and which has awakened throughout the world the noblest hopes, totter to its fall.









